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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

MATTHEW SINCLAIR ALLEN,

Defendant and Appellant.

E050606

(Super.Ct.No. FVI900344)

OPINION

APPEAL from the Superior Court of San Bernardino County. Miriam Ivy
Morton, Judge. Affirmed.

Victoria Matthews, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant Matthew Sinclair Allen appeals from a guilty plea to second degree robbery (Pen. Code, § 211)¹ with a firearm enhancement (§ 12022.53, subd. (b)). We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On February 24, 2009, defendant was charged with two counts of second degree robbery against two separate victims (§ 211) with a handgun (§ 12022.53, subds. (b) & (e)(1)) (counts 1 & 2) and two counts of assault with a firearm against two separate victims (§ 245, subd. (a)(2)) with personal use of a handgun (§ 12022.5, subds. (a) & (d)) (counts 3 & 4). In count 5, defendant was charged with second degree burglary of a convenience store (§ 459) with a handgun (§§ 1203.06, subd. (a)(1), 12022.5, subd. (a)), and in count 7 with possession of a firearm by a felon (§ 12021, subd. (a)(1)). Defendant was also charged in count 8 with street terrorism (§ 186.22, subd. (a)) with a handgun (§§ 1203.06, subd. (a)(1), 12022.5, subd. (a)). It was further alleged that all of these offenses were serious and violent felonies (§§ 1192.7, subd. (c), 667.5, subd. (c)(8)) committed for the benefit of, at the direction of, or in association with a criminal street gang (§ 186.22, subd. (b)(1)). Two prior prison terms were also alleged against defendant. (§ 667.5, subd. (b)(1).)²

At a preliminary hearing, an investigating deputy sheriff testified defendant entered a convenience store on the evening of February 20, 2009, wearing black clothes,

¹ All further statutory references are to the Penal Code unless otherwise indicated.

² The felony complaint also includes charges and special allegations against a codefendant.

a black beanie, and sunglasses. He pointed a handgun at the face of a cashier and demanded money. The cashier handed defendant several \$5 and \$1 bills from a register. Defendant then demanded money from a second cashier, who also handed money to defendant from a register. Defendant then ran out of the store.

A witness who saw defendant get into a vehicle followed him. As a result, police were able to obtain an address and a license plate number. The deputy was able to determine that defendant was the registered owner of the vehicle. Defendant was found hiding in the backyard with a small amount of cash fitting the description of the money stolen from the store, keys to the suspect vehicle, and a loaded handgun. Black clothing, a black beanie, and black sunglasses were found inside the vehicle. In addition, the deputy watched the surveillance video from the store and said the clothing found in the vehicle matched what the suspect wore inside the store.

Pursuant to a written plea agreement, defendant pled no contest on February 26, 2010, to count 1, second degree robbery, with personal use of a handgun. All remaining counts and allegations were dismissed and stricken. The parties agreed to the preliminary hearing transcript as a factual basis for the plea. The court followed the plea agreement by sentencing defendant to a total of 12 years in state prison, composed of the low term of two years, plus a consecutive term of 10 years for the gun enhancement.

DISCUSSION

On April 19, 2010, defendant filed a notice of appeal. We appointed counsel to represent defendant on appeal. Appointed counsel on appeal has filed a brief under *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738,

setting forth the facts and procedural history, raising no specific issues, and requesting this court to conduct an independent review of the record. On September 14, 2010, we offered defendant an opportunity to file a personal supplemental brief, which he failed to do. We have now concluded our independent review of the record and find no arguable issues.

DISPOSITION

The judgment is affirmed.

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RAMIREZ
P. J.

We concur:

HOLLENHORST
J.

McKINSTER
J.